

REMARKS

These remarks are submitted in response to the Office Action of January 29, 2003. In the Office Action, the Examiner acknowledged Applicant's election of claims 1-16 and canceled non-elected claims 17-53. In the Office Action, the Examiner rejected claims 2-9 under 35 U.S.C. § 112, second paragraph, as being indefinite. The Examiner also rejected claims 1-4 and 10-15 under 35 U.S.C. § 102(a) as being anticipated by U.S. Patent 5,570,552 to Nehring ("Nehring"). Finally, the Examiner rejected claims 1 and 5-9 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent 6,293,067 to Meendering ("Meendering").

In this amendment and response, Applicant offers arguments distinguishing pending claims 1-16 from the cited references, thereby overcoming the claim rejections. Applicant also makes minor amendments to the pending claims for clarification purposes and to more fully claim the subject matter disclosed in the specification. Applicant also adds new dependent claims 54-56. Applicant submits pending claims 1-16 and 54-56 are patentable over the prior art of record. Accordingly, Applicant respectfully requests a notice of allowance.

As general background, it is noted that the features in the amended claims place applicant's invention outside of the two main directions of the prior art. Applicant's block is akin to a conventional concrete or masonry block in its method of installation, but has many features not achievable with a conventional block used to build load bearing walls, including easier handling, better energy efficiency and opportunity for different inner and outer wall finishes. Applicant's walls structure also differs from the "walls" formed with conventional concrete wall forms to hold poured concrete, because it is built from independently placed, discrete, preassembled blocks units like a block wall, yet it can receive poured concrete for additional strength. In addition, most form systems do not have vertical weight bearing capability until filled with concrete, which forms the actual load bearing mass. Applicant's wall structure has substantial weight bearing capabilities when the discrete, preassembled blocks are placed, even before concrete is poured.

35 U.S.C. § 112, Second Paragraph, Rejections of Claims 2-9

In the Office Action, the Examiner rejected claims 2-9 under 35 U.S.C. § 112, second paragraph, as being indefinite. Applicant has amended independent claim 1 to recite that the block is “for independent placement with other laterally and vertically adjacent blocks to form a wall structure.” Applicant has also amended claim 2, which is dependent on claim 1, to make clear that “the connective structure is free of direct, structural connection to the wall of any other adjacent block when the block is in a wall structure.” Finally, Applicant has amended claim 4 to make clear that “the elongated groove extends substantially vertically when the block is in a substantially horizontal course of blocks in a wall structure.” Applicant submits that these claim amendments overcome the indefiniteness rejection. Therefore, Applicant respectfully requests that the indefiniteness rejection of claims 2-9 be withdrawn.

35 U.S.C. § 102(a) Rejections of Claims 1-4 and 10-15

In the Office Action, the Examiner rejected claims 1-4 and 10-15 under 35 U.S.C. § 102(a) as being anticipated by Nehring. A claim is anticipated only if each and every element as set forth in the claim is found in a single prior art reference. MPEP § 2131.

Nehring discloses “a modular wall construction system” that has sidewalls 22, 24 of “expanded foam plastic material.” *Nehring, col. 4, ll. 38-46*. Independent claim 1 as amended recites a block comprising “an outer wall and an inner wall, at least one of which is load bearing and made from a first material.” Nehring’s sidewalls of expanded foam plastic are not vertical load bearing. For at least this reason, Nehring fails to anticipate each and every element as set forth in independent claim 1. Because claims 2-4 and 10-15 depend on independent claim 1, Nehring also fails to anticipate these claims as well. Therefore, Applicant respectfully requests that the anticipation rejection be reconsidered and withdrawn.

35 U.S.C. § 102(e) Rejections of Claims 1 and 5-9

In the Office Action, the Examiner rejected claims 1 and 5-9 under 35 U.S.C. § 102(e) as being anticipated by Meendering. A claim is anticipated only if each and every element as set forth in the claim is found in a single prior art reference. MPEP § 2131.

Meendering discloses a forming system for poured concrete that utilizes “a series of sheets of foamed plastic material to provide the walls for the form.” *Meendering, col. 1, ll. 53-59*. Also, in assembling Meendering’s plastic walled forms,

the first tracks – ordinarily base tracks 15 – would be placed in parallel spaced relation. Ties 22 along the length of the track would be fastened simply by pressing the male formed part into the hollow 30 of the female form and snapping it into place. . . . The panels 10 are then placed in the channel form of the base track 15 and are topped by an H-shaped track 11. Successive panels can then be built up till the form is as high as desired and then capped with a cap track 15.

Meendering, col. 3, ll. 45-59.

Independent claim 1 recites “a discrete, preassembled, composite modular block for independent placement with other laterally and vertically adjacent blocks to form a wall structure, the block comprising: an outer wall and an inner wall, at least one of which is vertical load bearing and made from a first material.” Meendering’s walls of foamed plastic material are not vertical load bearing. Also, as is clear from FIG. 1 of Meendering and the above-quoted portion of Meendering, Meendering’s panels and connecting structures are combined piece-by-piece to build the Meendering forms. Thus, Meendering does not disclose a discrete, preassembled, composite modular block for independent placement with other laterally and vertically adjacent blocks to form a wall structure. For at least these reasons, Meendering fails to anticipate each and every element as set forth in independent claim 1. Because claims 5-9 depend on independent claim 1, Meendering also fails to anticipate these claims as well. Therefore, Applicant respectfully requests that the anticipation rejection be reconsidered and withdrawn.

New Claims 54-56

Applicant has added new dependent claims 54-56 to address an additional feature of the invention. It is submitted that these new claims are also allowable over the cited prior art, for the reasons stated above for claim 1. Consideration and allowance of these claims is respectfully requested.

CONCLUSION

In view of the above amendments and preceding remarks, it is respectfully urged that the rejection of the claims be reconsidered and withdrawn and that claims 1-16 and 54-56 be allowed. However, should any issue remain unresolved, the Examiner is invited to telephone the undersigned to expedite the allowance.

A petition for a one-month extension of time to respond (from April 29, 2003 – May 29, 2003) is enclosed herewith, along with a check in the amount of \$55 to cover the fee associated with the petition. The Office is also hereby authorized to charge any additional fees associated with this communication or the petition to Deposit Account 04-1420.

Respectfully submitted,

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Date: May 29, 2003

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